UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 0236

September Term, 2015

PAUL RANDALL BROOKS

v.

STATE OF MARYLAND

Kehoe,
Nazarian,
Moylan, Charles E., Jr.
(Retired, Specially Assigned),

JJ.

Opinion by Moylan, J.

Filed: June 15, 2016

The pro se appellant, Paul Randall Brooks, Jr., was originally convicted on January 13, 2005, by a Prince George's County jury, presided over by Judge William D. Missouri, of both first-degree murder and conspiracy to commit first-degree murder. Judge Missouri imposed two consecutive life sentences.

The appellant appealed his conviction to this Court. In Brooks v. State, No. 396, September Term, 2005, filed on July 10, 2008, we affirmed the conviction. In a 13-page opinion authored by recalled Judge (former Chief Judge) Murphy, this Court rejected all four contentions raised by the appellant.

On April 27, 2009, four years after his initial convictions, the appellant filed a Petition for Post Conviction Relief. Although seven years have since elapsed, for all that we have been told that petition is still pending.

What we do know is that on December 5, 2014, essentially ten years after the initial convictions, the appellant filed a Motion to Correct an Illegal Sentence pursuant to Maryland Rule 4-325(a). On February 18, 2015, Judge Krystal Q. Alves denied that motion without a hearing. This appeal followed. It raises a single contention:

> "**THE CIRCUIT COURT JUDGE FAILED TO GRANT APPELLANT A HEARING ON A PROPERLY FILED MOTION.**"

That is not only the marquee contention; it is the sole contention. We have scanned every line of the appellant's four-page argument and find not a word in support of this solitary contention. There is no exegesis of Rule 4-325 in its various parts or even a quotation of what it may say about any necessity for a hearing or about any requirements for

a hearing. On the issue of the necessity or non-necessity of a hearing before ruling on a Rule 4-325(a) motion, the appellant's brief is blank. It is not only not argued; it is not even mentioned. There is incidentally no reference to Scott v. State, 379 Md. 170, 840 A.2d 715 (2004), and what indirect bearing it might allusively have on the subject.

By way of a gratuitous counter-attack without having been first attacked, however, the State in its brief does cite Scott v. State, supra. It points us to Judge Battaglia's analysis of Rule 4-345 and its lone reference to a hearing in what is now subsection (f):

> "**(f) Open Court Hearing**. The court may modify, reduce, correct, or vacate a sentence only on the record in open court, after hearing from the defendant, the State, and from each victim or victim's representative who requests an opportunity to be heard. The defendant may waive the right to be present at the hearing. No hearing shall be held on a motion to modify or reduce the sentence until the court determines that the notice requirements in subsection (e)(2) of this Rule have been satisfied. If the court grants the motion, the court ordinarily shall prepare and file or dictate into the record a statement setting for the reasons on which the ruling is based."

(Emphasis supplied).

As the Court of Appeals points out in Scott, 379 Md. at 190, the hearing provision has no apparent reference to subsection (a), which is before us in this case and which deals with the trial court's authority to correct an illegal sentence at any time.

> "[A]s the Court of Special Appeals correctly pointed out, the open hearing requirement found in Rule 4-345 ordinarily applies only when the court intends to 'modify, reduce, correct, or vacate a *sentence*.'' Scott v. State, 150 Md. App. [468], 479, 822 A.2d [472], 748 [(2003)] (emphasis added)."

(Underline emphasis supplied).

With this acknowledgment of the State's very salient citation, however, we find ourselves sinking more deeply into the merits of the contention than we are inclined to go. We are not addressing a contention; we are addressing a bald assertion and that requires little comment. Precisely because of the posture of this unsubstantiated assertion, we do not intend to offer an opinion as to whether a Motion to Correct an Illegal Sentence pursuant to Rule 4-345(a): 1) never requires a hearing, 2) always requires a hearing, or 3) sometimes requires a hearing. An appeal is not intended to be a procedure whereby an appellant poses a problem for the appellate court and then looks to that court, sua sponte, to do its own research and to provide the appellant with an answer. We do not rewrite even pro se appellate briefs or presume to answer questions that might have been, but were not, asked. Nor will we engage in mind-reading by trying to figure out what an appellant meant to say, but didn't. In short, an appellate court is not a legal aid bureau.

The precise issue before us, of course, is whether Judge Alves committed reversible error by denying the appellant's Rule 4-345(a) motion without, sua sponte, holding a hearing. There are various ways that that question could be answered. We will take the most direct way. Absent indications to the contrary, there is a universally recognized presumption that the trial judge did the right thing for the right reasons. That is the prevailing status quo. When an appellant seeks to upset that status quo by overturning one of those presumptively correct decisions, that appellant undertakes to persuade an appellate court that the lower

court committed error and should be reversed. Should that effort fail, as more often than not it will, the status quo remains undisturbed and the nisi prius decision is affirmed.

In this case, the appellant has failed to rebut that presumption by persuading us that Judge Alves committed error. Let it be clear. We are not holding that Judge Alves, in declining to hold a hearing, was right. We have had no occasion even to consider such a question. Our holding is simply that the appellant has failed to persuade us that Judge Alves was wrong. That was the limited question calling for an answer.

The State, in its brief, has gone on to argue the merits of several of the appellant's allegations that there were procedural flaws in his trial ten years ago. We find that those merits, whatever they might be, are absolutely irrelevant to the limited procedural issue before us on this appeal. There is no need for more dicta.

JUDGMENT AFFIRMED; COSTS TO BE PAID BY APPELLANT.